

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

KENNETH CLIFFORD CROWTHER

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CASE NO. 4:07CR71

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 12, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Chip Roy.

On March 26, 2001, the Defendant was sentenced by the Honorable Joe Kendall, United States District Judge, to 24 months imprisonment followed by a 3-year term of supervised release for the offense of conspiracy to transfer and use one or more means of identification of another person with intent to commit a state law felony. The case was re-assigned to the Honorable Ed Kinkaide, after which it was transferred from the Northern to Eastern District of Texas and re-assigned to the Honorable Richard A. Schell. Defendant began his term of supervised release on July 2, 2004.

On June 12, 2007 the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 2). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; and (2) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following violations: (1) on December 21, 2006, Defendant was arrested by the Garland Police Department in Garland, Texas, charging him with Burglary of a Building; and (2) Defendant failed to notify the probation officer within seventy-two hours of being arrested on December 21, 2006.

At the August 12, 2009, hearing, Defendant entered a plea of true to the allegations regarding violation of federal, state, or local crime, and the Government agreed to withdraw any claims based on Defendant's failure to notify the U.S. Probation Office. Defendant has also waived his right to allocute before the district judge as well as his right to object to the report and recommendation of this Court.

In light of his plea of true, the Court finds that Defendant violated the terms of his supervised release. Further, after hearing argument from counsel as to the proposed sentence, as well as a statement from Defendant regarding his medical condition, the Court recommends that Defendant's supervised release be revoked.

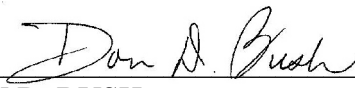
RECOMMENDATION

As fully set forth above, the Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, to be served consecutively with any state court sentence, with no supervised release to follow.

The Court further recommends that Defendant be required to pay restitution joint and several with co-defendants Mark Frank Christiansen, Thomas Randall McDonald, and Barbara Lynn Wilks in the amount of \$70,801.52 payable to the U.S. District Clerk. The restitution is due immediately, payable by cashier's check or money order, to the United States District Court and forwarded to the United States District Clerk's Office for the Northern District of Texas, 100 Commerce, Room 1452, Dallas, Texas 75242.

The Court further recommends that Defendant's term of imprisonment be carried out in Fort Worth's Carswell medical facilities in light of his current medical condition.

SIGNED this 13th day of August, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE